

THE BROUGH LAW FIRM

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The Brough Law Firm was founded by Michael B. Brough in 1988 in Chapel Hill, North Carolina, with an adjunct office opening in Asheville in 2001. The firm has five lawyers and supporting administrative staff. The firm's practice is primarily devoted to representing local governments in state and federal court in the areas of land use law, employment law, general representation, and litigation and appeals. In addition, the firm also assists numerous individuals and corporations in a broad range of municipal and land use matters, such as seeking development permits or engaging in litigation at the trial and appellate levels. Firm members have argued over 120 cases in the state and federal appellate courts.

The firm serves as general counsel for the Town of Carrboro, Town of Hillsborough, City of Roxboro, Town of Siler City, Town of Tarboro, Town of Aberdeen, Town of Pinebluff, Town of Taylortown, Village of Whispering Pines, and Town of Cameron. The firm also provides litigation services for the Town of Cary, and regularly assists numerous other cities and counties throughout the State in matters ranging from ordinance drafting to litigation.

The members of the firm have extensive experience in litigation and appellate matters. In addition, various members of the firm have taught on the adjunct faculties at the University of North Carolina School of Law, North Carolina Central University School of Law, Campbell University School of Law, Elon College, Duke University School of Law, National Institute for Trial Advocacy, and at the Institute of Government in Chapel Hill. Collectively, the members of the firm have published twelve books and monographs, and over 30 articles (including Continuing Legal Education papers) on various areas of law in which the firm practices.

The firm's private clients include individuals, citizen groups, businesses and corporations, and commercial and residential developers. We advise and represent these clients on a broad range of planning, zoning and land use-related issues such as rezonings, variances, special and conditional use permits, annexations, condemnations, vested rights, subdivision development, historic district designations, and the NC Coastal Area Management Act, as well as other land use and environmental laws.

Please feel free to contact us if we can assist you in any way.

MICHAEL B. BROUGH

Michael B. Brough received his Bachelor of Arts degree, with highest honors, from Georgetown University in Washington, D.C. in 1969. He received his law degree, with honors, from the University of Michigan Law School in 1973, and holds a Master's Degree in Public Administration from the Maxwell School of Citizenship and Public Affairs at Syracuse University, where he was a Governor Herbert H. Lehman Fellow.

Mr. Brough founded The Brough Law Firm in 1988. Before that, he practiced as a sole practitioner, then as a partner in Faison, Brown, Fletcher & Brough, and served as President of Adjunct Services, Inc., a firm providing ordinance codification and legal research services to local governments. He has held a variety of teaching positions, including Assistant Professor of Public Law and Government at the Institute of Government, University of North Carolina at Chapel Hill (1974-1976); Adjunct Assistant Professor of Law & Administration, UNC-CH (1978-1979); and Visiting Lecturer, University of North Carolina School of Law (1979-1980, and 1991). At these institutions, and at numerous Continuing Legal Education programs, he has taught courses in state and local government law and land use law.

Mr. Brough is the author of two books: *Selected Major Issues in North Carolina Zoning and Land Use Law* (1986), and *A Unified Development Ordinance*, (American Planning Association 1985). He has also authored three monographs: *The Zoning Board of Adjustment in North Carolina* (with Philip P. Green, Jr.) (Institute of Government 1984), *Preparing Ordinances Regulating Mobile Homes and Mobile Home Parks in North Carolina: A Guidebook* (Institute of Government 1976), and *The Nonconforming Use in North Carolina Zoning Law: Text and Model Ordinance* (Institute of Government 1976). In addition, he has written over twelve articles on various topics of land use law, including litigation and appeal issues, obtaining development permission under local ordinances, local government liability for unlawful land use decisions, issues involving local watershed protection programs, and issues related to vested rights and takings law.

Mr. Brough is general counsel for the Town of Carrboro, Town of Tarboro, Town of Aberdeen, Village of Whispering Pines, Town of Pinebluff and Town of Cameron, and he regularly consults with other cities and counties, developers, and citizen groups around the State. His practice is primarily devoted to matters involving state and local government and land use law. He has argued numerous cases in the North Carolina Supreme Court, North Carolina Court of Appeals, and the United States Court of Appeals for the Fourth Circuit, and is a Certified Mediator in North Carolina.

WILLIAM C. MORGAN, JR.

William C. Morgan, Jr. received a Bachelor of Science in Business Administration degree from Appalachian State University in Boone, North Carolina in 1985. He received his law degree from the University of North Carolina at Chapel Hill in 1988, and then served for over two years as a law clerk to the Honorable Woodrow Wilson Jones, Senior United States District Court Judge for the Western District of North Carolina in Rutherfordton. Since joining the Brough Law Firm in 1991, Mr. Morgan has concentrated in municipal defense and land use matters.

Mr. Morgan has extensive experience representing towns and counties in North Carolina. He is general counsel for the Town of Siler City and the Town of Taylortown, and he regularly works with numerous other North Carolina municipalities including Asheville, Rutherfordton, and Cary. Mr. Morgan's practice is devoted to municipal defense, zoning matters, and land use issues, and he regularly drafts zoning and unified development ordinance amendments, and police and fire department policy and procedure manuals. Mr. Morgan often consults with municipal officials, developers, and citizen groups in regards to a wide range of matters related to land use issues, and he has represented clients in the North Carolina Supreme Court, North Carolina Court of Appeals, the United States Court of Appeals for the Fourth Circuit, numerous North Carolina Superior and District Courts, and many local Boards of Adjustment.

Mr. Morgan is admitted to practice in all federal courts in North Carolina, the United States Court of Appeals for the Fourth Circuit, and the United States Supreme Court. He is a member of the North Carolina Municipal Attorneys Association, the American Bar Association, North Carolina Bar Association, and the Buncombe County Bar Association. Mr. Morgan practices primarily from the firm's adjunct office in Asheville, North Carolina.

G. NICHOLAS HERMAN

G. Nicholas Herman received his Bachelor of Arts degree in 1977 from the University of North Carolina at Chapel Hill as a Morehead-Cain Scholar. He received his law degree from Duke University School of Law in 1981. He was formerly a partner in the firm of Coleman, Bernholz, Bernholz, Gledhill, Hargrave & Herman, where his practice concentrated in general, civil and criminal litigation and appeals. He has extensive litigation experience in state and federal court in a wide variety of areas of law, including county defense, zoning issues, personal injury, civil rights, criminal law, and employment law. He has also argued numerous cases in the North Carolina Supreme Court, North Carolina Court of Appeals, and the United States Court of Appeals for the Fourth District.

Mr. Herman is an Adjunct Professor at North Carolina Central University School of Law, and he has also taught on the adjunct faculties at Duke Law School, UNC-CH Law School, Campbell Law School, and Elon University (Department of Philosophy). He teaches courses in trial practice, the law of evidence, legal counseling and negotiating, appellate advocacy, criminal law, criminal procedure, alternative dispute resolution, pleading and practice, statutory interpretation, legal writing, and pretrial litigation. He has also taught on the faculty of the National Institute of Trial Advocacy in trial practice, negotiation and mediation, and deposition-taking skills. He is the author of five books: *Practical Evidence: The Law, Foundations, and Trial Techniques* (2d ed. West Group 1999), *Plea Bargaining*, (2d ed. Juris Publishing Inc. 2004), *Legal Counseling, Negotiating & Mediating: A Practical Approach* (Lexis/Nexis 2009), *A Practical Approach to Client Interviewing, Counseling, and Decision-Making: For Clinical Programs and Practical-skills Courses* (Lexis/Nexis-Matthew Bender & Co. 2009), and *North Carolina Civil Trial Practice and Procedure* (Juris Publishing, Inc., scheduled for publication in 2012). He has also written over 30 articles on various subjects of civil and criminal litigation, including direct examination, opening statement, jury instructions, deposition taking, issues in employee drug testing, nuisance abatement, the law of damages, appellate oral argument, and appellate brief writing.

Mr. Herman has been a lecturer at numerous Continuing Legal Education programs on topics such as the law of damages, witness preparation, legal aspects of drug testing, and ethical considerations in civil litigation and appellate practice. His Bar activities include service as President of the Orange County Bar Association (1991), Vice President (1986), Secretary-Treasurer (1987), and as a member of the North Carolina Bar Association's Appellate Rules Study Commission.

Mr. Herman now serves as general counsel to the City of Roxboro, and otherwise his practice is primarily devoted to litigation and appeals involving areas such as county and municipal defense, zoning issues, land use regulation, condemnation cases, nuisance abatement, employment law issues, business litigation and person injury.

ROBERT E. HORNİK, JR.

Robert E. Hornik, Jr. received his Bachelor of Arts degree, with honors, in Political Science from LeMoyne College in Syracuse, New York in 1981. He received his law degree from The Washington & Lee University School of Law in Lexington, Virginia, in 1984. Thereafter, he was admitted to practice in New York, where he engaged in the private practice of law in Syracuse, New York from 1984 through September 1998.

Mr. Hornik's practice emphasizes municipal law, zoning, land use, annexation and related environmental law and litigation. He joined the Firm in October 1998, and now serves as general counsel to the Town of Hillsborough. Mr. Hornik and has represented and advised municipalities in New York and North Carolina on issues including local finance, employment, annexation, zoning, planning and environmental law, and private developers in administrative and judicial proceedings at the State and Federal levels. Mr. Hornik's experience includes extensive litigation experience in municipal land use and annexation matters in trial and appellate courts. He has also counseled clients in various commercial real estate transactions, including site acquisition, leasing and financing of multi-million dollar commercial, retail and office ventures, and large scale residential subdivisions.

Mr. Hornik is admitted to practice in North Carolina (1997) and New York (1985). He is also admitted to practice in the Federal courts in the Northern and Western Districts of New York, in the Eastern, Middle and Western Districts of North Carolina, in the United States Circuit Court for the Fourth Circuit, and in the United States Supreme Court. He is a member of the North Carolina, New York and American Bar Associations. Mr. Hornik is active in the North Carolina Bar Association's Zoning, Planning and Land Use Section, for which he was a member of the Section's first Section Council. He has also served two terms as Chairman of the Section's Continuing Legal Education Committee.

T.C. MORPHIS, JR.

T.C. Morphis grew up in Hickory, North Carolina. He received a Bachelor of Arts in Philosophy and History from UNC-Chapel Hill in 1997 and both a Law Degree and a Master's Degree in City and Regional Planning from UNC-Chapel Hill in 2002.

While in law school, Mr. Morphis worked as an intern with the Conservation Trust for North Carolina; as a regional planning intern with the Triangle J Council of Governments; a clerk with the City Attorney's office in Charlotte, North Carolina; as an extern for the Honorable Judge Linda McGee of the North Carolina Court of Appeals and as a co-instructor for a course in cultural diversity at UNC-Chapel Hill. Mr. Morphis' Masters Project compared land trusts and resource conservation efforts in North Carolina with forest conservation in India, and he was a recipient of a U.S. Department of Education Foreign Language Area Studies scholarship for the study of Hindi and Urdu in 2000. Mr. Morphis received the Gressman-Pollitt Award for Oral Advocacy in 1999, won the Best Overall award in the UNC Environmental Negotiation Competition in 1999, and was a finalist in the Merhige National Environmental Negotiation Competition in 2002.

Mr. Morphis has been with the Brough Law Firm since the fall of 2002. Mr. Morphis' primary practice areas include municipal, zoning, land use, environmental and coastal area management law. He provides general legal counsel for the Town of Aberdeen and works extensively with the Towns of Carrboro, Hillsborough and Pinebluff on general local government issues and more specifically on zoning, nuisance and code enforcement issues. Mr. Morphis has also assisted several municipalities with rewriting their unified development ordinances or codes of ordinances, and he regularly represents citizen groups and other private clients in land use litigation throughout North Carolina.

Mr. Morphis is admitted to practice in the State courts in North Carolina and in the United States District Court, Middle District of North Carolina. Mr. Morphis is a member of the North Carolina Bar Association and has been elected to serve on the North Carolina Bar Association's Zoning, Planning and Land Use Section Council. He previously served on the Triangle Land Conservancy's Land Protection Committee and as the Chairman of the Advisory Committee to the City of Durham's Community and Family Life Center at Lyon Park.

CASES BRIEFED OR ARGUED BY FIRM MEMBERS

North Carolina State Cases

Adoption of P.E.P., 100 N.C. App. 191, 395 S.E.2d 133 (1990), *rev'd*, 329 N.C. 692, 407 S.E.2d 505 (1991)

Allen v. City of Burlington Bd. of Adjustment, 100 N.C. App. 615, 397 S.E.2d 657 (1990)

Amward Homes v. Town of Cary, COA09-923 (N.C. App. 08-03-2010)

Angell v. City of Sanford, 106 N.C. App. 90, 415 S.E.2d 589 (1992)

Anthony v. City of Shelby, 152 N.C. App. 144, 567 S.E. 2d 222 (2002)

Ashby v. Town of Cary, 161 N.C. App. 499 (2003)

Ashley v. The City of Lexington, COA10-314, 704 S.E.2d 529 (N.C. App. 01-04-2011)

Barnett v. Karpinos, 119 N.C. App. 719, 460 S.E.2d 208 (1995)

Batch v. Town of Chapel Hill, 92 N.C. App. 601 (1989), 376 S.E.2d 22, *rev'd*, 326 N.C. 1, 387 S.E. 2d 655 (1990)

Bradley Co. v. Town of Chapel Hill, 112 N.C. App. 135, 435 S.E.2d 375 (1993)

Capricorn Equity Corp. v. Town of Chapel Hill Bd. Of Adjustment, 106 N.C. App. 134, 415 S.E.2d 752 (1992), *rev'd*, 334 N.C. 132, 431 S.E.2d 183 (1993)

Casella v. Alden, 200 N.C. App. 24 (2009)

Caswell Cty. v. Town of Yanceyville, 170 N.C. App. 124, 611 S.E.2d 451 (2005)

Chapel Hill Title v. Chapel Hill, 362 N.C. 649 (2008)

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City of Lumberton v. U.S. Cold Storage, Inc., 6341 S.E.2d 165 (2006)

City of Asheville v. Bowman, 172 N.C. App. 586, 616 S.E.2d 669 (2005)

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Clark v. Red Bird Cab Co., 114 N.C. App. 400, 442 S.E.2d 75 (1994)

Coleman v. Town of Hillsborough, 173 N.C. App. 560, 619 S.E.2d 555 (2005)

Coucoulas/Knight Prop. v. Town of Hillsborough, 364 N.C. 127, 691 S.E.2d 411 (2010)

Craig v. County of Chatham, 356 N.C. 40, 565 S.E.2d 173 (2000)

Danaher v. Joffe, 184 N.C. App. 642, 646 S.E.2d 783 (2007)

Davis v. Taylor, 81 N.C. App. 42, 344 S.E.2d 19 (1986)

Dempsey v. Silver Creek, 185 N.C. App. 158 (2007) (unpublished)

Dixon v. Taylor, 169 N.C. App. 455, 612 S.E.2d 448 (unpublished)

Duggins v. Town of Walnut Cove, 63 N.C. App. 684, 306 S.E.2d 186 (1983)

Environmental Management Commission, In the Matter of, 53 N.C. App. 135, 280 S.E.2d 520 (1981)

Evergreen Constr. Co. v. Kinston, COA08-390 (N.C. App. 12-16-2008) (unpublished)

Fairway Outdoor Advertising, Inc. v. City of Salisbury, N.C., 478 S.E.2d 674 (N.C. App. 1996), 1997 WL 197154

Fischell v. Rosenberg, 90 N.C. App. 254, 368 S.E.2d 11 (1988)

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City of Hillsborough v. Hughes, 140 N.C. App. 714, 538 S.E.2d 586, *rev. denied*, 353 N.C. 370, 547 S.E.2d 4 (2000)

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Kegley v. City of Fayetteville, 170 N.C. App. 656, 613 S.E.2d 696 (2005)

Kentallen, Inc. V. Town of Hillsborough, 110 N.C. App. 767, 431 S.E.2d 231 (1993)

Kirkpatrick v. Town of Aberdeen, 171 N.C. App. 365 (2005) (unpublished)

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Leete v. County of Warren, 114 N.C. App. 755, 443 S.E.2d 98 (1994), *rev'd*, 341 NC 116, 462 S.E.2d 476 (1995)

Lloyd v. Chapel Hill, 127 N.C. App. 347, 489 S.E.2d 898 (1997)

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Maffei v. Alert Cable TV of North Carolina, Inc., 75 N.C. App. 473, 331 S.E.2d 188 (1985), *rev'd*, 316 N.C. 615, 342 S.E.2d 867 (1986)

Magnolia MFG of N.C. v. Erie Ins. Exch., 361 N.C. 213 (2007)

March v. Town of Kill Devil Hills, 125 N.C. App. 151, 479 S.E.2d 252 (1997)

McDonald v. City of Concord, 188 N.C. App. 278 (N.C. App. 1-15-2008)

McDowell v. Randolph County, COA09-1113, 698 S.E.2d 202 (N.C. App. 07-20-2010) (unpublished)

McDowell v. Randolph County, 186 N.C. 17, 649 S.E.2d 920 (2008)

Moody v. Town of Carrboro, 301 N.C. 318, 271 S.E.2d 265 (1980)

Murdock v. Chatham Cty., 198 N.C. App. 309, 679 S.E.2d 850 (2009)

Musi v. The Town of Shallotte, 200 N.C. App. 379, 684 S.E.2d 892 (2009)

Myers v. Town of Plymouth, 352 N.C. 670, 535 S.E.2d. 355 (1999)

Nolan v. Village of Marvin, 360 N.C. 256 (2006)

Nolan v. Town of Weddington, 182 N.C. App. 486, 642 S.E.2d 261 (2007)

Nolan v. Town of Weddington, 157 N.C. App. 364, 578 S.E.2d 710 (2003)

Northeast Concerned Citizens v. Hickory, 143 N.C. App. 272, 545 S.E.2d 768 (2001)

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Northwood Homeowners Ass'n, Inc. v. Town of Chapel Hill, 112 N.C. App. 630, 436 S.E.2d 282 (1993)

Northwestern Financial Group, Inc. v. County of Gaston, 110 N.C. App. 531, 430 S.E.2d 689 (1993)

Orange Cty. v. Dubeau, 175 N.C. App. 592, 624 S.E.2d 433 (2006)

Orange Water and Sewer Authority v. Town of Carrboro, 58 N.C. App. 676, 294 S.E.2d 757 (1982)

Parish v. Town of Hillsborough, 502 S.E.2d 637, 130 N.C. App. 195, rev'd, 350 N.C. 231, 513 S.E.2d 547 (1999)

Parkwood Ass'n, Inc. v. City of Durham, 124 N.C. App. 603, 478 S.E.2d 204 (1996)

Phelps v. Duke Power Co., 76 N.C. App. 222, 332 S.E.2d 715 (1985), *appeal after remand*, 86 N.C. App. 455, 358 S.E.2d 89 (1987), *rev'd and remanded*, 324 N.C. 72, 376 S.E.2d 238 (1989)

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Robinette v. Barriger, 116 N.C. App. 197, 447 S.E.2d 498 (1994)

Russell v. Guilford County, 100 N.C. App. 541, 397 S.E.2d 335 (1990)

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Tonter Investments, Inc. v. Pasquotank County, 199 N.C. App. 579, 681 S.E.2d 536 (2009)

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Town of Pinebluff v. Marts, 195 N.C. App. 659 (2009)

Townsend Enterprises, Inc. v. Board of Adjustment of Town of Hillsborough, COA: 522P93, cert. denied, 442 S.E.2d 527 (1994)

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Water Tower Office Associates v. Town of Cary, 507 S.E.2d 589 (1997)

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rev'd, 313 N.C. 306, 327 S.E.2d 882 (1985), *on remand*, 74 N.C. App. 605, 328 S.E.2d 907
(1985)

Wiles v. Concord Zoning Bd. of Adjust., 195 N.C. App. 598 (2009)

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Mallas v. United States, 993 F.2d 1111 (4th Cir. 1993)

Nello L. Teer Co. v. Orange County, No. 92-2240 (4th Cir. May 26, 1993)

Norris, et.al. v. Wilmington, 110 F.3d 60 (4th Cir. 1997)

Sandhills Association of Realtors, Inc. v. Village of Pinehurst, 1999 WL 1129624 (M.D.N.C. 1999)

United States v. Baker, 985 F.2d 1248 (4th Cir. 1993)

United States v. Blackwell, 946 F. 2d 1049 (4th Cir. 1991)

United States V. Blackwell, 900 F.2d 742 (4th Cir. 1990)

United States v. Clarke, 7 F.3d 227 (4th Cir. 1993)

United States v. Town of Garner, 720 F. Supp.2d 721 (E.D.N.C. 06-22-2010)

United States v. Giunta, 925 F.2d 758 (4th Cir. 1991)

United States v. Gomez, 838 F.2d 468 (4th Cir. 1987)

United States v. Hargas, 908 F.2d 968 (4th Cir. 1990)

United States v. \$10,694.00 U.S. Currency, 828 F.2d 233 (4th Cir. 1987)

Wake County Hospital System, Inc. v. National Casualty Co., 804 F. Supp. 768 (E.D.N.C.), *aff'd*, 996 F.2d 1213 (4th Cir. 1993)

PUBLICATIONS BY MEMBERS OF THE FIRM

Books & Monographs

Legal Counseling, Negotiating & Mediating: A Practical Approach (Lexis-Nexis 2009)

The Nonconforming Use in North Carolina Zoning Law: Text and Model Ordinance, (Institute of Government 1976)

North Carolina Civil Trial Practice and Procedure (Juris Publishing, Inc., scheduled for publication in 2012).

North Carolina Volunteer Fire Department Journal (1995 to present)

The Order Of The Golden Fleece At Chapel Hill, 1904-2004: America's First Honor Society For University Leaders (The University of North Carolina at Chapel Hill Library 2005).

Plea Bargaining (2d ed. Juris Publishing, Inc. 2004)

A Practical Approach to Client Interviewing, Counseling, and Decision-Making: For Clinical Programs and Practical-skills Courses (Lexis/Nexis-Matthew Bender & Co. 2009)

Practical Evidence: The Law, Foundations, and Trial Techniques (2d ed. West Group 1990).

Preparing Ordinances Regulating Mobile Homes and Mobile Home Parks in North Carolina: A Guidebook (Institute of Government 1976)

Selected Major Issues in North Carolina Zoning and Land Use Law (1986)

A Unified Development Ordinance (American Planning Association 1985)

The Zoning Board of Adjustment in North Carolina (Institute of Government 2d. ed. 1984)

Articles

“An Introduction to Form-Based Zoning,” *Land Use Law Quarterly* (NC Bar Association April, 2010).

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10 Tools for Mediation Caucuses, 41 TRIAL, No. 5 at 66 (May, 2005).

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PRESENTATIONS BY MEMBERS OF THE FIRM
IN CONTINUING LEGAL EDUCATION PROGRAMS

“Update on the City of Hickory Unified Development Ordinance,” (Catawba County Bar Association meeting, June 12, 2009)

“Development Agreements and Conditional Zoning in North Carolina,” (Moore County Planning Retreat, August 15, 2008)

“Origin, History, And Status Of Bill Dealing With Quasi-Judicial Land Use Decisions,” (Law Seminars International Two Day Conference, July 24-25, 2008)

“Senate Bill 212: Land-Use Permit Appeals” (N.C. Bar Foundation, May 3, 2007)

“Governmental Immunity” (UNC-Chapel Hill School of Government, October 27, 2005)

“Judicial Review of Quasi-Judicial Zoning Decisions” (N.C. Bar Foundation, May 7-8, 2004)

“Getting the Most Out of Your Appraiser (Updated)” (CLE International Eminent Domain Conference August 14-15, 2003)

“Local Regulation of Intensive Livestock Operations After *Craig v. County of Chatham*,” (North Carolina Bar Association CLE Program October 4, 2002)

“Getting the Most Out of Your Appraiser” (CLE International Eminent Domain Conference June 27-28, 2002)

“Neither Fish Nor Fowl: Conditional Use Zoning” (N.C. Bar Foundation, 2002)

“The Law of Depositions in North Carolina,” (North Carolina Academy of Trial Lawyers CLE Program January 11, 2002)

“Hot Topics in Environmental Law & Legislative Update” (N.C. Bar Foundation 2002)

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ORGANIZATIONAL AFFILIATIONS OF MEMBERS OF THE FIRM

North Carolina Bar Association, Zoning, Planning and Land Use Section
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